IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

WP(C).No. 10119 of 2007(D)

PETITIONER:

C.I.JOHN,PROPRIETOR,M/S.CHEMTECH CHEMICALS,INDUSTRIAL DEVELOPMENT AREA,ANAGAMALY, ERNAKULAM DISTRICT.

BY ADV. SRI.BOBBY JOHN
SRI.TOMSON T.EMMANUEL

RESPONDENTS:

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1. THE COMMERCIAL TAX OFFICER,COMMERCIAL TAXES,ANGAMALY.

2. THE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES,ERNAKULAM.

3. THE INPSECTING ASSISTANT COMMISSIONER, COMMERCIAL TAXES,MATTANCHERY.

BY GOVT. PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WPC 10119/2007)

PETITIONER'S EXTS.

EXT.P1 - TRUE COPY OF THE ANNUAL RETURN DATED 30.08.2006 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P2 - TRUE COPY OF THE KGST ASSESSMENT ORDER DATED 30.10.2006 PASSED BY THE FIRST RESPONDENT.

EXT.P3 - TRUE COPY OF THE CST ASSESSMENT ORDER DATED 30.10.2006 PASSED BY THE FIRST RESPONDENT.

EXT.P4 - TRUE COPY OF THE APPEAL FOR KGST DATED 22.01.2007 FILED BY THE PETITIONER.

EXT.P5 - TRUE COPY OF THE APPEAL FOR CST DATED 22.01.2007 FILED BY THE PETITIONER.

EXT.P6 - TRUE COPY OF THE STAY PETITION DATED 22.01.2007 FOR KGST ASSESSMENT FILED BY THE PETITIONER.

EXT.P7 - TRUE COPY OF THE STAY PETITION DTED 22.01.2007 FOR CST ASSESSMENT FILED BY THE PETITIONER.

EXT.P8 - TRUE COPY OF THE RR NOTICE DATED 15.01.2007 ISSUED BY THE 3RD RESPONDENT FOR KGST ASSESSMENT.

EXT.P9 - TRUE COPY OF THE RR NOTICE DATED 15.01.2007 ISSUED BY THE 3RD RESPONDENT FOR CST ASSESSMENT.

EXT.P10 - TRUE COPY OF THE STAY ORDER DATED 20.03.2007 PASSED BY THE 2ND RESPONDENT.

/TRUE COPY/

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 10119 OF 2007-D

JUDGMENT

The petitioner attacks Ext.P10 interim order passed on the stay applications filed by him in Sales Tax Appeal Nos.468 & 469/2007. He submits, for detection of an isolated incident of suppression, which was compounded also, addition of 10% of the turnover is unjustified in the K.G.S.T assessment. He also points out that he prayed for time to produce C Form and if time was granted, practically the entire amount assessed as C.S.T will be wiped off. On the basis of the above grounds, the petitioner seeks absolute stay of recovery of the amounts payable under Exts.P2 and P3 assessment orders.

2. Heard the learned Government Pleader for the respondents also. I find some force in the submission of the petitioner that there is no finding regarding the pattern of suppression, for making addition of 10% of the turnover. Having regard to the facts of the case, I feel that some relief can be granted to the petitioner. So, if the petitioner pays Rs.One lakh on or before 31.3.2007 and furnishes security for the balance amount to the satisfaction of the assessing authority on or before 20.4.2007, further

recovery of the amounts due under Exts.P2 and P3 shall be kept in abeyance till the disposal of Exts.P4 and P5 appeals. The appellate authority shall endeavour to dispose of the appeals expeditiously. The petitioner shall co-operate with the appellate authority for early disposal of the appeals, by not making unnecessary motion for adjournment.

The Writ Petition is disposed of as above.

23rd March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/